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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/773,582	02/09/2004	Jose S. Landa	NEV685	6728
44088	7590	06/13/2006	EXAMINER	
SEAN KAUFHOLD P. O. BOX 89626 SIOUX FALLS, SD 57109			HANEY, RICHAE LEE	
			ART UNIT	PAPER NUMBER
			3765	
DATE MAILED: 06/13/2006				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/773,582

Applicant(s)

LANDA ET AL.

Examiner

Richale L. Haney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 09 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 is/are allowed.
- 6) ☒ Claim(s) 1,2 and 6 is/are rejected.
- 7) ☒ Claim(s) 3-5 and 7 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 09 February 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>2/9/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1, 2, and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Guidoni (US 3,939,845) in view of Kolker (US 4,121,305). The device of Guidoni discloses a bikini top having a first (1) and second panel (2) generally triangular in shape and adapted for positioning substantially over and covering the breasts of the wearer, a first elongated strap (16) having a first end and second end (Fig. 1) extending through the first panel (see the dashed line Fig. 1), a second elongated strap (15) having a first end and a second end (Fig. 1) extending through a second panel (2). The first and second straps are looped together (25, 26) attaching the first panel to the second panel. It is noted by the examiner that the bikini of Guidoni is capable of being worn in an alternative form, wherein the straps cross at the back of the wearer by tying each end (25, 26) with an end at (17). The triangular panels disclosed in the prior art have a peripheral edge, including an upper edge, inner corner and outer corner, said inner corners are directed towards each other when the bikini top is worn (Fig. 3). The device of Guidoni shows an alternative type of bathing suit bottom and is lacking a third strap (Figures 3 and 4). The device of Kolker discloses a bikini

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bottom having a third panel (11), with a front edge and a back edge located between a (Fig. 6A, 38 and 39) first side edge and a second side edge having a concave shape (See Fig. 6A), and a third strap being elongated and having a first end and a second (40, 41), and the third strap extending into both the front and back edges so that leg openings are formed between the third strap and each of the side edges (Figures 7 and 8). It is noted that the panel (31, 32) would appear to have a concave configuration when viewed in a flat state. It would have been obvious to one of ordinary skill in the art at the time the invention was made to substitute the bikini bottom of Guidoni with the bottom of Kolker in order to maintain an aesthetic flow, wherein both the top and bottom pieces incorporate a strap.

Allowable Subject Matter

3. Claims 3 – 5 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
4. Claim 8 is allowed.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Reid (US 2,535,018), Engelman (2,611,130), Laszlo (US D130,974), Ries (US 2,542,881), Beard (US 4,656,669), Guidoni (US 3,847,158), Delplace (US 3,740,765), DeCaro (US 6,240,560), Kawami (US 6,896,582), Swan

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(D484,671), and Rose et al. (US 6,422,917) show bikini tops and bottoms having strap configurations.

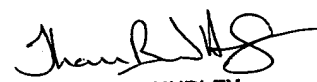
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Richale L. Haney whose telephone number is 571-272-8689. The examiner can normally be reached on M-F 8:00 - 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on 571 -272-4983. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Richale L. Haney
Patent Examiner
Art Unit 3765
June 9, 2006

RLH


SHAUN R. HURLEY
PRIMARY EXAMINER